

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

**TERRY HAGGERTY, derivatively on behalf of
PACIFIC SANDS, INC., a Nevada corporation,**

Plaintiff,

Case No. 2:23-cv-01532-PP

v.

**PACIFIC SANDS, INC., MICHAEL MICHIE,
JAMES MADERSKI, and GORDON BROOKS,**

Defendants.

**MOTION TO DISMISS VERIFIED COMPLAINT
FOR BREACH OF FIDUCIARY DUTY AND OTHER RELIEF**

Relief Sought and Grounds for Motion to Dismiss

Defendants, Pacific Sands, Inc. ("Pacific Sands"), Michael Michie ("Michie"), James Maderski ("Maderski"), and Gordon Brooks ("Brooks"), respectfully move to dismiss with prejudice all of the Counts of Plaintiff Terry Haggerty's ("Haggerty") derivative Verified Complaint for Breach of Fiduciary Duty and Other Relief ("Complaint") (Dkt. 1). His breach of fiduciary duty claims in all Counts should be dismissed: (1) pursuant to Federal Rule of Civil Procedure 12(b)(1), for lack of subject-matter jurisdiction, (2) pursuant to Federal Rule of Civil Procedure Rule 12(b)(6), for Haggerty's failure to state a claim upon which relief can be granted, (3) pursuant to Federal Rule of Civil Procedure 9(b), for his failure to state with particularity the circumstances constituting fraud (breach of fiduciary duty), (4) pursuant to Federal Rules

of Civil Procedure 23.1(a) and 23.1(b), for his failure to comply with the pleading requirements for derivative actions, (5) pursuant to Section 78.138 of Nevada's Revised Statutes for his failure to rebut the presumption of the Nevada business judgment rule, and (6) pursuant to Nevada Revised Statutes Section 78.345, because his claim concerning stockholders' meetings is barred because he does not have the requisite percentage of shares, (7) pursuant to Nevada Revised Statutes Section 11.380, because his claims concerning the 2015 and 2016 share transactions are barred because they are untimely, all as more particularly argued in the attached Brief of Defendants in Support of their Motion to Dismiss Verified Complaint for Breach of Fiduciary Duty and Other Relief.

Respectfully submitted,

By: /s/ Kevin P. Brown
One of Defendants' Attorneys

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